

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

Curves International, Inc.,

Plaintiff,

vs.

Linda S. Mosbarger,

Defendant

Case Action No. 2007-CV-807-MHT

To: Linda Mosbarger and her counsel of record Connie Morrow and Charles E. Grainger, Jr.,
Grainger Legal Services, Inc., 4220 Carmichael Ct., N., Montgomery, Alabama 36106

PLAINTIFF'S SECOND MOTION FOR CONTINUANCE

This matter was initiated by Curves International, Inc. ("Curves") in September, 2007 to enforce the terms of a Franchise Agreement. The Court initially scheduled an evidentiary hearing on Curves' Motion for a Preliminary Injunction on November 14, 2007 at 10:00 a.m. Curves sought expedited discovery and took the deposition of Defendant Linda Mosbarger ("Mosbarger") on November 2, 2007. At the time of the deposition, Mosbarger testified that she allegedly sold the business at issue in this case, "Jordan's Gym", to Truitt K. Johnson ("Johnson") in December, 2006. In addition, Mosbarger disclosed the identity of the current manager for Jordan's Gym, Susan Tinley ("Tinley"). Because Johnson and Tinley possess information relevant to the ongoing operation of Jordan's Gym, including Mosbarger's involvement in the ongoing operation, Curves sought a continuance of the November 14, 2007 evidentiary hearing in order to subpoena the records and testimony of Johnson and Tinley.

The Court granted Curves' Motion for a Continuance, but reset the hearing for one week later on November 21, 2007. Unfortunately, this does not provide Curves with sufficient time to

subpoena the records and testimony of Johnson and Tinley prior to the rescheduled evidentiary hearing. In addition, November 21, 2007 is the day before Thanksgiving and is one of the busiest travel days of the year. Even if counsel for Curves could secure airline tickets to travel on November 21, they would be in excess of \$1,500 because of the short lead time and significant demand for travel on that day.

In order to give Curves sufficient time to secure documents and testimony from Johnson and Tinley, Curves is requesting that the Court continue the evidentiary hearing for a minimum of 30 days. While Curves recognizes that this will delay a hearing on the merits, it gives Curves the opportunity to present full and complete evidence at the evidentiary hearing.

CONCLUSION

Based upon the foregoing, Curves respectfully requests that the Court continue the evidentiary hearing currently scheduled for November 21, 2007 to a time shortly after January 1, 2008.

Dated: November 14, 2007

**GRAY, PLANT, MOOTY,
MOOTY & BENNETT, P.A.**

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